

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA**

WILLIAM T. WHITMAN, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

STATE FARM LIFE INSURANCE COMPANY,
an Illinois corporation

Defendant.

No. 3:19-cv-06025-BJR

DECLARATION OF SCOTT HUBERT

1 I, Scott Hubert, have personal knowledge of the information below and declare as follows:

2 1. I am an independent contractor agent for State Farm Mutual Automobile Insurance
3 Company (“State Farm”), the parent of State Farm Life Insurance Company (“State Farm Life”) in
4 Washington.

5 2. I am not an employee of State Farm.

6 3. As an independent contractor agent for State Farm, I provide information to potential
7 policyholders on the many products State Farm offers that help people manage the risks of everyday
8 life and recover from the unexpected so that potential policyholders can select the products of their
9 choice. I provide information about insurance, the risks that make it necessary, how to protect
10 individuals and their property from those risks, and how to help individuals achieve important goals
11 for themselves and their families.

12 4. I am licensed to market, solicit, and service insurance in Washington. I have been an
13 independent contractor agent for State Farm since 2001.

14 5. I received my Life Underwriter Training Council Fellow (LUTCF) from American
15 College.

16 6. My office is located in Auburn, Washington. Most of the people I market insurance to
17 are from the Auburn area. Auburn is a diverse community with people with different income levels,
18 different levels of education, and different ages. There is a train from the city into Seattle and some
19 people who live in Auburn commute into Seattle.

20 7. I understand that this lawsuit involves claims against State Farm Life relating to the
21 Universal Life insurance policy issued on Form 94030, which was sold in Washington between 1994
22 and 2004 (“the Policy” or “Universal Life”).

23 8. In my over 20-year career as an independent contractor agent for State Farm, I have
24 marketed insurance policies to thousands of people. I have had many long conversations with potential
25 policyholders about how Universal Life policies work and what their benefits are.

1 9. I have received training from State Farm Life on its life insurance products, including
2 Universal Life insurance. I was trained on what the products are and their benefits to potential
3 policyholders. I was also given guidance on ways to have discussions about the products with potential
4 policyholders that focused on their particular needs and motivations in looking for life insurance, but
5 I was not given a required script on what to say or how to say it. The way I interacted with potential
6 policyholders was left up to me as an independent contractor agent.

7 10. I bought Universal Life policies for both of my sons, who are 27 and 24 years old. I
8 bought these policies in Washington in 1995 and 1996, when I was working as an employee for another
9 State Farm agent. I had my life insurance licenses at that time and decided that the Policy would be a
10 good choice for my sons because their individual ages, gender, good health, and the fact that they did
11 not smoke made them eligible for permanent life insurance coverage and a rate class assignment and
12 cost of insurance rate that were economical.

13 11. Most of the insurance I marketed during the relevant period happened through in-
14 person, individual discussions. During discussions of policyholders' Home or Auto insurance policies,
15 we would also review their life insurance needs.

16 12. Sometimes, during those reviews, the question came up of whether the policyholder
17 was ready financially for a tragic life event. If the potential policyholder expressed a need for
18 protection, then we discussed life insurance. It was my custom and practice to start by discussing the
19 differences between term insurance (for a set number of years) and permanent insurance (meaning
20 whole life insurance or Universal Life insurance). I asked potential policyholders about the debts they
21 would need to cover if someone passed away. I also asked potential policyholders their reasons for
22 looking to buy life insurance.

23 13. During my 20-year career marketing life insurance products for State Farm Life, people
24 have expressed lots of different reasons for why they are seeking life insurance. Some people want to
25 protect something in their life, like their family's ability to pay off a mortgage. Some people need
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1 income replacement in the event of the death of the primary breadwinner for the family so that their
2 family will still have money coming in. Connected to these financial needs, life events—like having
3 children, getting married, or buying a home—push people to buy life insurance.

4 14. During the relevant time period, if someone was more interested in permanent life
5 insurance than term insurance, then I explained the differences between whole life insurance and
6 Universal Life insurance. For some people, a Universal Life policy was a better choice. That was
7 often because the premiums are flexible, and the amount of coverage is the same as a whole life policy.
8 The flexible premiums could help people afford the Policy because if a life event happened that
9 impacted their financial situation and income then they would be able to lower the premiums they pay.

10 15. During the relevant time period, when describing a Universal Life policy, it was my
11 custom and practice to tell potential policyholders that it had three parts: the coverage amount, the
12 account value, and the cash surrender value. I would explain these concepts at a high-level in a manner
13 consistent with the terms of the policy.

14 16. It was my custom and practice during the relevant time period to explain the monthly
15 deductions to potential policyholders, which includes: the \$5 monthly expense charge, the cost of
16 insurance, and the monthly charges for any riders. I would review what each deduction is, that the
17 deduction is taken whether or not premiums are paid, as long as the cash surrender value is enough to
18 cover that monthly deduction, and that the monthly deduction is made from the account value.

19 17. I also explained to potential policyholders that the account value earns interest. I would
20 explain what the current interest rate was and then I would explain that the interest rate may fluctuate—
21 go up or down—in the future. I would point out how State Farm Life guaranteed a minimum interest
22 rate of at least 4% a year so that the account value would always be earning some interest.

23 18. During the relevant time period, when discussing how the Policy worked, it was my
24 custom and practice to discuss the underwriting process, which was the process through which State
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1 Farm Life confirmed each person's health characteristics and other information that affected rate class
2 and determined which rate class the insured would be assigned.

3 19. When discussing the underwriting process, it was my custom and practice during the
4 relevant time period to discuss how age and sex impacted the cost of insurance rate. I would explain
5 that men are assigned a different cost of insurance rate and have a higher cost of insurance rate than
6 women because women are expected to live longer than men. I would explain that older people are
7 assigned a different cost of insurance rate and have a higher cost of insurance rate than younger people
8 because younger people are expected to live longer than older people.

9 20. During the relevant time period, if a potential policyholder smoked or had an
10 underlying health condition, I would tell them that they would be in a more expensive rate class than
11 someone who did not smoke or have an underlying health condition, which would mean that they
12 would have higher cost of insurance rates. I would explain that this was because it costs State Farm
13 Life more to insure someone who smoked or had an underlying health condition than someone who
14 did not.

15 21. It was my custom and practice to also explain to potential policyholders that their rate
16 class would be determined through State Farm Life's underwriting process. If the underwriting
17 process discovered that the person was not as healthy as he or she thought, then this could cause the
18 person to fall into a "substandard" rate class. I told potential policyholders that this was called being
19 "table rated." I told potential policyholders that their rate class, along with their sex and age, would
20 determine the cost of insurance rate and the amount of their monthly cost of insurance deduction. As
21 part of these discussions, it was my custom and practice to explain that State Farm Life took on more
22 risk by insuring people with underlying health conditions and so those people's rate class would be
23 different and entail higher cost of insurance rates than a healthy person.

24 22. I can remember instances during the relevant time period where potential policyholders
25 had been table rated during the underwriting process because of an underlying health condition that
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1 they did not know about or had failed to disclose in their application. As a result of being assigned a
2 different rate class than we had initially discussed, their cost of insurance rates were higher. Some of
3 those customers still purchased the Policy even after going through State Farm Life's underwriting
4 process and being table rated.

5 23. After a potential policyholder has gone through the underwriting process and has been
6 assigned a rate class, during the relevant time period my custom and practice was to have them come
7 back into my office so that we could go over the final policy together. With term insurance, I typically
8 made a phone call, but for a Universal Life policy, I tried to have people come into my office.

9 24. When the potential policyholder came back into my office during the relevant time
10 period, it was my custom and practice to give them the policy form. We would not discuss the policy
11 form's language, but we went over how the Policy would work, including the premiums, the monthly
12 deductions, and the account value. I reminded policyholders of the need to continue monitoring the
13 policy's account value.

14 25. In my conversations with potential policyholders during the relevant time period, I do
15 not recall policyholders raising concerns or asking me questions about whether profits and expenses
16 were a part of the cost of insurance rate. I think that is because most of the people that I spoke to
17 understood that the company has to keep its lights on and pay other expenses that are part of the cost
18 of doing business as an insurer.

19 26. It was my experience during the relevant time period that, for some potential
20 policyholders, their budget was the main factor in deciding on the type of life insurance that they
21 ultimately picked. I advised people that they should get as much coverage as they could afford within
22 their budget. Potential policyholders wanted to know what coverage they could get for what price and
23 by that I mean the potential policyholder wanted to understand what their financial obligations would
24 be to ensure the Policy remained in force, so that if anything happened to them, their beneficiaries
25 would receive the death benefit under the Policy.

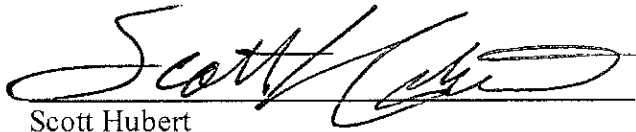
1 27. During the relevant time period, I had close relationships with many of the
2 policyholders that I marketed Universal Life insurance to because I had also marketed Auto and Home
3 insurance policies to them. I think the people who purchased Universal Life policies from State Farm
4 Life during the relevant time period bought them because they knew from their prior experience as
5 policyholders that State Farm Life provided excellent service and was a financially strong, solvent and
6 stable company, and they knew that I provided excellent service.

7 28. As I mentioned previously, I marketed policies to a diverse set of people. Given this
8 wide variety of people, the questions that I fielded tended to vary with the demographics of the person
9 that I was talking to. For instance, I found that some high-income individuals were more interested in
10 the cash value aspect of the policy. Other individuals focused primarily on the death benefit.

11 29. I also had some people that purchased the Policy with a child as the named insured. If
12 that was the case, then the conversations would be different from my conversations with people who
13 purchased the Universal Life policy for themselves. I would tell people considering a Universal Life
14 policy for their children that they would be able to lock in a lower cost of insurance rate for their
15 child's Universal Life policy. I bought the Universal Life policies for my sons because I wanted them
16 to have a Universal Life policy with a low cost of insurance rate.

17 30. Another way that potential policyholders differed was in their experience with different
18 insurance companies. For example, during the relevant time period, some potential policyholders had
19 life insurance policies from other companies. I was always willing to review policies from other
20 insurers that the potential policyholder owned and explain how State Farm Life's policies were
21 different or the same and how they compared.

22 Executed this 28th day of March, 2021 in Auburn, Washington.

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24 Scott Hubert